

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2021-082-00227C

Parcel No. 0431011B11

**APEX Carwashes, LLC,**

Appellant,

vs.

**Scott County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on September 8, 2021. Attorney Benjamin Yeggy represented APEX Carwashes, LLC (Apex). Assistant Scott County Attorney Robert Cusack represented the Board of Review.

Apex owns a commercial car wash property located at 9 Lincoln Avenue, Park View, unincorporated Scott County, Iowa. Its January 1, 2021, assessment was set at \$94,110, allocated as \$33,310 in land value and \$60,800 in improvement value. (Ex. A).

Apex petitioned the Board of Review contending the property was assessed for more than the value authorized by law. Iowa Code §§ 441.37(1)(a)(1)(b) (2021). The Board of Review denied the petition. (Ex. B).

Apex then appealed to PAAB and continues to assert the property is over assessed. § 441.37(1)(a)(1)(b).

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the

appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **Findings of Fact**

Apex's carwash, operated as Parkview Car Wash, was built in 1995 and has 1983 square feet of gross building area with two hand-wash bays and one automatic bay. It also has a vacuum station and 10,400 square feet of concrete paving. The improvements are listed in normal condition with a 4+00 Grade (average quality). The improvements have been physically depreciated by 60%, with an additional 20% functional obsolescence and a 20% economic obsolescence applied. An additional 20% other obsolescence was applied to the building subtotal. The site is 0.612 acres. (Ex. A).

Apex purchased the subject property in November 2018 for \$92,000. (Ex. 1). Jens Baker, Apex's owner, testified the purchase agreement allocated \$45,000 of the purchase price to personal property – car wash equipment. (Ex. 1, p. 4; Ex. 3). The allocation of the purchase price was determined based on Baker's review of the existing equipment associated with the subject property's car wash operation. He testified the allocation was based on historical sales data and replacement cost of equipment, but was ultimately agreed upon by the parties to the sale. None of that underlying data has been provided to PAAB. He did not have an appraisal of the real property, personal property, or any other third-party professional allocation between the two components. Baker estimates he has spent \$25,000 to \$30,000 on repairs, additions, or replacement of the equipment since the 2018 purchase.

Baker listed the property for sale in July 2020 for \$125,000, allocated as \$65,000 to the building and improvements and \$60,000 to the car wash equipment. (Exs. 2 & D). Baker reported the allocation is based on his estimate of value for the equipment. He testified he has had no interest or offers for the subject property. Although the 2020 listing has expired Baker has recently been in contact with the listing agent about getting it back on the market.

Based on his previous purchase price and the 2020 listing, Baker believes the subject property is over assessed. He testified he did not have the subject property appraised, which we note is common evidence to support an overassessment claim. Nor did Apex offer any recent sales of car wash facilities, a market income analysis of similar car wash facilities, or a depreciated cost of constructing a car wash like the subject property in an effort to establish the January 1, 2021 market value.

Scott County Chief Deputy Assessor John Kelly testified for the Board of Review. Kelly testified the subject property was valued using the Iowa Real Property Appraisal Manual. He stated the subject's building is assessed at roughly \$47 per square foot.

Kelly also testified about a 2020 sale of a car wash in Eldridge that he considered to be very similar to the subject property. He reported the Eldridge car wash is a 1638 square foot building built in 1994 with a similar bay count to the subject property but a slightly smaller lot. Kelly stated the Eldridge car wash recently sold for \$127,500; or \$77.84 per square foot. Kelly testified that to his knowledge, the declaration of value (DOV) recorded for the Eldridge sale reported the entirety of the sale price to the real property with no personal property (car wash equipment) allocation. The Board of Review did not submit any evidence of this sale such as its property record card, a listing, or the DOV. Kelly also believed the 2018 DOV for the subject similarly did not identify that the sale included any personal property.

### **Analysis & Conclusions of Law**

Apex contends the subject property is over assessed as provided under Iowa Code section 441.37(1)(a)(1)(b).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

Under Iowa law, there is no presumption that the assessed value is correct. § 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted). To shift the burden, the taxpayer must “offer[] competent evidence that the market value of the property is different than the market value determined by the assessor.” Iowa Code § 441.21(3). To be competent evidence, it must “comply with the statutory scheme for property valuation for tax assessment purposes.” *Soifer*, 759 N.W.2d at 782.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

Car wash equipment is nonassessable under section 427A.1(6). Apex contends its 2018 purchase price of the subject property included car wash equipment. Based on its expertise, it allocated the 2018 purchase as \$45,000 to the personal property and \$47,000 to the real property.

While we recognize the sale of a going-concern car wash would likely include non-assessable car wash equipment, we are cautious about relying solely on the parties' self-reported purchase price allocation. “[C]aution is necessary because those allocations may be based on income tax issues or other considerations and may not reasonably reflect the actual value contribution of the various assets.” THE APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 668 (15th ed. 2020).

PAAB considered a similar argument in Apex's 2019 assessment appeal concerning the same property. *Apex Carwashes, LLC v. Scott Cnty. Bd. of Review*,

2019-082-00167C (Dec. 2019). There the evidence showed the seller was motivated to sell the property due to failing health. Then, like now, Apex also failed to substantiate the allocation of value with evidence consistent with section 441.21, and PAAB ultimately found Apex's allocation of value unpersuasive. We find the 2018 allocation even less persuasive in considering the 2021 assessment and give it no weight.

For the January 1, 2021 market value, Apex relies on an expired listing of the subject property, which allocates \$65,000 to the real property. Apex did not submit any other evidence of the subject property's fair market value as of January 1, 2021. Typically, this evidence is a competent appraisal or comparative market analysis or at minimum recent sales of comparable properties adjusted for differences between them and the subject property.

Additionally, we are not persuaded the \$60,000 allocation for the equipment was arrived at in a manner that is consistent with section 441.21. The record lacks any evidence of what actual equipment exists on the subject property. Moreover, the record does not provide convincing evidence of what the value of that property is based on the sales, income, or cost approaches.

Ultimately, the subject is assessed for less than the recent list price and we find the self-determined allocation of value to be unpersuasive. Accordingly, we find Apex has not shown the subject's assessment is excessive.

Viewing the record as a whole, we find Apex has failed to prove his claim.

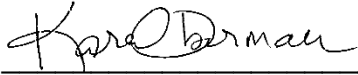
## **Order**

PAAB HEREBY AFFIRMS the Scott County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

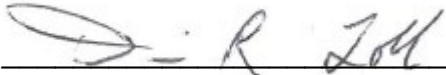
Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2021).



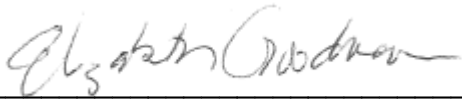
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Karen Oberman, Board Member



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member

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